

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**ROMEO ENTERTAINMENT GROUP,
INC., a Nebraska Corporation,**

Plaintiff,

v.

**SHOWING ANIMALS RESPECT AND
KINDNESS, INC., d/b/a SHARK, an
Illinois Corporation, et al.,**

Defendants.

CASE NO. 8:08CV481

ORDER

This matter is before the Court on the Report and Recommendation of Magistrate Judge F.A.Gossett (Filing No. 32) recommending that the Plaintiff's Motion to Remand (Filing No. 14) be denied. A Statement of Objection to the Report and Recommendation, as allowed by 28 U.S.C. § 636(b)(1) and NECivR 72.3(a), has been filed by the Plaintiff (Filing No. 34).

The Court has considered the parties' briefs (Filing Nos. 14-2 and 23) and the Defendant's evidentiary submission (Filing No. 24) presented to the Magistrate Judge, as well as the parties' arguments made in support and in opposition to the Objection (Filing Nos. 34 and 35).

With respect to the Plaintiff's Statement of Objection to the Magistrate Judge's Report and Recommendation, the Court has conducted a *de novo* review of the record pursuant to 28 U.S.C. § 636(b)(1) and NECivR 72.3. This Court has reviewed all the evidence and arguments presented by the parties and has considered the applicable law relative to the Magistrate Judge's Report and Recommendation, in which he recommended that the Court deny the Plaintiff's Motion to Remand.

In its Objection, the Plaintiff argues that the Magistrate Judge failed to take into account a pre-removal settlement reached between the Plaintiff and a non-party, which reduced the amount in controversy below the \$75,000 threshold set out in 28 U.S.C. §

1332(a). The Plaintiff contends that “the Court is not bound by the four corners of the Complaint when considering Plaintiff’s Motion [to Remand].” (Filing No. 34; ¶ 2). However, as the Defendant notes in its memorandum in opposition, the Plaintiff has cited no legal authority in support of its assertion. (Filing No. 35).

In his Report and Recommendation Judge Gossett directly addressed Plaintiff’s argument; “Notwithstanding any payments made to plaintiff pursuant to the confidential settlement agreement, the state court complaint was not amended prior to its removal to federal court.” (Filing No. 32, pp. 3-4). His recommendation that the Plaintiff’s Motion to Remand be denied was based on his conclusion that “[o]n the face of the pleading, at the time of the removal, the plaintiff still sought the recovery of an amount exceeding \$100,000.” (Filing No. 32, p. 4).

The Magistrate Judge’s Report and Recommendation correctly states the facts as supported by the evidence before the Court at this time, and correctly applies the law. Accordingly, I conclude that Judge Gossett’s Report and Recommendation should be adopted, and the Plaintiff’s Motion to Remand (Filing No. 14) and Objection (Filing No. 34) should be denied. Accordingly,

IT IS ORDERED:

1. The Plaintiff’s Statement of Objection to Magistrate Judge’s Recommendation (Filing No. 34) is denied;
2. The Magistrate Judge’s Report and Recommendation (Filing No. 32) is adopted in its entirety; and
3. The Plaintiff’s Motion to Remand (Filing No. 14) is denied.

Dated this 6th day of March, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge